

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Children and Families Committee

BILL: SB 354

SPONSOR: Senator Lynn

SUBJECT: Family Child Care Homes

DATE: January 31, 2005

REVISED: 02/08/05

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sanford</u>	<u>Whiddon</u>	<u>CF</u>	<u>Fav/2 amendments</u>
2.	<u></u>	<u></u>	<u>CA</u>	<u></u>
3.	<u></u>	<u></u>	<u>HA</u>	<u></u>
4.	<u></u>	<u></u>	<u></u>	<u></u>
5.	<u></u>	<u></u>	<u></u>	<u></u>
6.	<u></u>	<u></u>	<u></u>	<u></u>

## Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

### I. Summary:

Senate Bill 354 requires that all family day care homes be licensed, eliminating the option of registration for family day care homes. A deadline of July 1, 2006, is provided for existing registered family day care homes to become licensed. The term "family day care" is updated and changed to "family child care." In addition, the minimum standards the Department of Children and Families (DCF) is authorized to establish for family day care homes under s. 402.313, F.S., is expanded to allow for the development of safety requirements. The provisions of this bill are contingent upon the allocation of funds sufficient to support the positions necessary to provide for the licensure of the additional family day care homes now registered.

This bill substantially amends the following sections of the Florida Statutes: 125.0109, 166.0445, 402.27, 402.302, 402.3051, 402.306, 402.312, 402.313, 409.1671, and 627.70161. The bill also reenacts s. 400.953(3), of the Florida Statutes.

### II. Present Situation:

The intent of child care regulation in Florida, as in most states, is to protect the health, safety, and well-being of the children, as well as to promote their emotional and intellectual development and care. In Florida, both child care centers and large family child care homes are required to be licensed pursuant to the licensing standards set forth in ss. 402.305 and 402.3131,

F.S., respectively, unless certain exemptions are met. Child care centers are facilities that provide child care to more than five children who are unrelated to the operator and for whom a payment is received for the care (s. 402.302(2), F.S.). Large family child care homes are residences where child care is provided for up to 12 children, depending on the age of the children, for at least two unrelated families for a fee (s. 402.302(8), F.S.).

Family day care homes are a third child care arrangement permitted in Florida. These are residences where child care is provided for between four and ten children, depending on the age of the children, from at least two unrelated families, for a fee (s.402.302(7), F.S.). These family day care homes may choose not to be licensed unless the county licensing ordinance requires licensure or the board of county commissioners passes a resolution requiring licensure of family day care homes (s. 402.313(1), F.S.). The counties which have required licensure of family day care homes either by local ordinance or resolution are Alachua, Broward, Clay, Dade, Duval, Hillsborough, Nassau, Palm Beach, Pinellas, Polk, Sarasota, and St. Johns. Family day care homes either required or choosing to be licensed must meet minimum standards relative to staffing, training, immunization records, health, and enforcement, as well as reduced standards for evening care provided by municipalities and counties (s. 402.313(13), F.S.). Unlike licensing standards for child care centers or large family child care homes, these standards do not include minimum safety requirements. The licensing process includes inspections and enforcement actions to ensure that the required standards are met.

The department is responsible for the licensure and enforcement of licensure standards for child care centers, family day care homes, and large family child care homes (ss. 402.301 through 402.319, F.S.), unless a county has chosen to assume the child care licensing responsibility pursuant to s. 402.306, F.S. Currently, seven counties have assumed the local licensing authority; Alachua, Brevard, Broward, Hillsborough, Palm Beach, and Sarasota. Of these counties, all require licensure of family day care homes, with the exception of Brevard.

Family day care homes which are not required or do not choose to be licensed must register annually with the department pursuant to s. 402.313(1)(a), F.S. Such registration requires that the following information be provided to the department: name of the operator and home, address of the home, number of children being served, a plan for a substitute caregiver in an emergency, proof that the criminal background and employment history check was completed, proof that the required 30-hour training program was completed and competency test passed, and proof that the immunization records are maintained. Registered family day care homes are not subject to standards for operation nor inspection. Currently, there are 2,633 family day care homes in the state that are registered.

The terminology used for child care provided in the home has shifted in recent years from “family day care” to “family child care.” This shift in terminology is reflected in the statutory references for “large family child care homes.” However, the term “family day care” still continues to be used for the original smaller home settings.

### III. Effect of Proposed Changes:

The bill requires that all family day care homes be licensed, eliminating the option for a family day care home to be registered. A deadline of July 1, 2006, is provided for existing registered family day care homes to become licensed. The term “family day care” is updated and changed to “family child care.” In addition, the minimum standards the department is authorized to establish for family day care homes under s. 402.313, F.S., is expanded to allow for the development of safety requirements. The provisions of this bill are contingent upon the allocation of the positions necessary to provide for the licensure of the additional family day care homes now registered.

Specifically, s. 402.313, F.S., is amended to delete the conditions under which a family day care home is required to be licensed and the requirements for registration. Instead, the section requires that all family day care homes be licensed and deletes references to the “registered” category of family day care homes. References to the “registered” category of family day care homes are also deleted from following sections: s. 125.0109, F.S., regarding county zoning regulation; s. 166.0445, F.S., regarding city zoning regulations; s. 402.207, F.S., regarding providing information to statewide child care resource and referral agencies; s. 402.3051, F.S., regarding the child care market rate; s. 402.306(3), F.S., regarding designating a local licensing agency and disseminating information; s. 402.312, F.S., regarding seeking an injunction to discontinue operation of the child care services; s. 409.1671, F.S., regarding the privatization of foster care and related services; and s. 627.70161, F.S., regarding residential property insurance coverage. Family day care homes registered as of June 30, 2005, are allowed until July 1, 2006, to obtain a license.

The term “family day care” is updated and revised to “family child care” by this bill. Specifically, “family day care” is changed to “family child care” in ss. 125.0109, 166.0445, 402.27, 402.302, 402.3051, 402.306, 402.312, 402.313, 409.1671, and 627.70161, F.S. This bill is not revising the term “family day care” in every section of law where the term currently appears; therefore, the definition of “family day care home” in s. 402.302(7), F.S., is amended to provide for a definition of “family day care home” or “family child care home.”

Section 402.313, F.S., relating to minimum standards for licensure of family day care homes is amended to require the development of safety standards and to remove the stipulation that the reduced standards for evening child care apply only to municipalities and counties.

Section 402.27(10), F.S., is amended to add large family child care homes to the child care settings that must provide the identified information to the statewide child care resource and referral agencies. The requirement in s. 402.313(2), F.S., that the department annually publish a directory of the family day care homes is amended to remove the direction that the information must be published in a directory. The department reports that this information is published through a web-site.

Section 400.953(3), F.S., describes when proof of the background screening conducted pursuant to s. 402.313, F.S., must be accepted in lieu of the employment screening required for home medical equipment provider personnel and is reenacted by the bill to incorporate the revision to s. 402.313, F.S., to eliminate registered family day care homes.

The bill takes effect July 1, 2005, but only if funds are allocated for the 30 additional positions that will be needed for licensing family child care homes

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

Brevard County currently registers 68 family day care homes. If these homes are to be licensed and inspected, the Brevard County licensing agency will require staff to perform the annual licensing function for the 68 family day care homes registered. The cost of performing this function in Brevard County is included in the DCF fiscal comments below.

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

#### V. Economic Impact and Fiscal Note:

##### A. Tax/Fee Issues:

**Department Licensing Fees:** Although s. 402.315(3), F.S., authorizes DCF to collect a fee for any license it issues for a child care facility, no authority is granted to assess fees for either the licensure or registration of family day care homes.

The fee for licensed child care facilities is one dollar per child, with a minimum of \$25.00 per center and a maximum of \$100 per center. The monies collected are held in a DCF trust fund and are reallocated to DCF the following year to fund child care licensing activities, s. 402.315(5), F.S. While these fees are not sufficient to sustain the program, they do support training on health and safety, public awareness, parental information, equipment, and critical technical assistance.

**Local Licensing Fees:** Counties are already authorized to collect fees for any licenses they issue pursuant to s. 402.308, F.S. This authorization is found in s. 402.315(4), F.S. Most local licensing agencies already require the licensure of family day care homes. However, in Brevard County (the only local licensing authority that does not currently require the licensure of family day care homes), family day care homes that are not currently subject to the fee might become so if the county chooses to exercise its authority under s. 402.315(4), F.S.

**B. Private Sector Impact:**

Family day care homes that are currently registered would be subject to more stringent standards. It is anticipated that costs will be associated with meeting these standards. Additionally, if Brevard County imposes its already-authorized ability to impose a licensing fee on the previously-registered homes, these homes will have an additional cost.

**C. Government Sector Impact:**

According to DCF, this bill will require inspections of the 2,633 family day care homes currently not subject to licensure. Of these 2,633 family day care homes, 2,565 are regulated by the department and 68 are regulated by Brevard County. Brevard County currently does not require licensure of family day care homes. The annual licensing of the homes regulated by the department will require a total of 26 licensing staff positions. This projection is based on a caseload standard of one licensing position per 100 family day care homes, the standard set by the U.S. Government Accounting Office. In addition, a small amount of administrative support is needed to assist with the additional administrative workload, bringing the total number of positions needed to 30. The department reports that the fiscal impact for these 30 positions will be \$1,770,450 for the first year (amount includes salaries, expenses, and OCO funding) and \$1,676,460 for recurring costs for subsequent years.

Included in the figures above is funding for one FTE for Brevard County. According to DCF, upon the effective date of the bill, if it becomes law, an appropriate amount of funding, based on caseload, will be transferred from DCF to the Brevard local licensing authority.

**VI. Technical Deficiencies:**

The bill amends most but not all occurrences of the words “day care.” Section 402.281(1), F.S., relating to the gold seal quality care program, s. 402.3131(1), F.S., relating to large family child care homes, and s. 402.3145(2), F.S., relating to the subsidized child care transportation program, still contain the outdated language.

**VII. Related Issues:**

None



## **VIII. Summary of Amendments:**

### **Bar Code 110112 by Children and Families:**

Amends s. 402.281 F.S. to conform to bill by re-naming family day care homes as family child care homes. (WITH TITLE AMENDMENT)

### **Bar Code 612858**

Amends s. 409.3131 F.S. and s. 409.3145 to conform to bill by re-naming family day care homes as family child care homes. (WITH TITLE AMENDMENT)

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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